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Attorneys for Defendants PREFERRED PLUMBING, INC.,
JAMES LUIS RUIZ, EMILIO RUIZ and FEDERICO RUIZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE BARRIGA, JESUS TORRES URIBE,
and JOEL MENDOZA

Plaintiffs,

vs.

PREFERRED PLUMBING, INC.; JAMES
LUIS RUIZ; EMILIO RUIZ; AND
FEDERICO RUIZ

Defendants.

CASE NO. CV 08 1700 BZ

**ANSWER OF DEFENDANTS
PREFERRED PLUMBING, INC.,
JAMES LUIS RUIZ, EMILIO RUIZ
AND FEDERICO RUIZ TO
COMPLAINT**

Defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz (collectively, "Preferred Plumbing/Ruiz") respond to the allegations in the Complaint of plaintiffs Jose Barriga, Jesus Torres Uribe and Joel Mendoza as follows. Preferred Plumbing/Ruiz is continuing its investigation relating to the allegations and claims asserted by plaintiffs. Discovery has not yet commenced. Accordingly, Preferred Plumbing/Ruiz reserves its right to amend this Answer and to assert additional affirmative defenses.

NATURE OF CLAIM

1. Preferred Plumbing/Ruiz admits that plaintiffs worked for defendant Preferred Plumbing, Inc. Preferred Plumbing/Ruiz specifically denies each and every remaining allegation contained in paragraph 1.

2. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 2.

SUBJECT MATTER JURISDICTION AND VENUE

3. Preferred Plumbing/Ruiz admits the allegations contained in paragraph 3.
4. Preferred Plumbing/Ruiz admits the allegations contained in paragraph 4.

PARTIES

5. Preferred Plumbing/Ruiz is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 5, and on that basis denies each and every allegation contained therein.
6. Preferred Plumbing/Ruiz admits the allegations contained in paragraph 6.
7. Preferred Plumbing/Ruiz admits that Preferred Plumbing, Inc. was hired to provide plumbing work for certain public projects. Preferred Plumbing/Ruiz specifically denies each and every remaining allegation contained in paragraph 7.
8. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 8.
9. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 9.
10. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 10.
11. Preferred Plumbing/Ruiz admits that defendants James Ruiz, Emilio Ruiz and Federico Ruiz have an ownership interest in Preferred Plumbing, Inc. Preferred Plumbing/Ruiz specifically denies each and every remaining allegation contained in paragraph 11.
12. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 12.
13. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 13.

GENERAL ALLEGATIONS

14. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 14.
15. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 15.
16. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 16.
17. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 17.
18. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 18.
19. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 19.
20. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 20.

COUNT ONE

(Violation of Fair Labor Standards Act)

21. Preferred Plumbing/Ruiz realleges and incorporates by references its responses to paragraphs 1-20 above.
22. Preferred Plumbing/Ruiz admits the allegations contained in paragraph 22.
23. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 23.
24. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 24.
25. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 25.

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1 26. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
2 paragraph 26.

3 27. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
4 paragraph 27.

5 28. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
6 paragraph 28.

7 29. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
8 paragraph 29.

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COUNT TWO

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(Violation of California Labor Code)

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30. Preferred Plumbing/Ruiz realleges and incorporates by references its responses to
13 paragraphs 1-29 above.

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31. Preferred Plumbing/Ruiz admits the allegations contained in paragraph 31.

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32. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
16 paragraph 32.

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33. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
18 paragraph 33.

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34. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
20 paragraph 34.

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35. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
22 paragraph 35.

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36. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
24 paragraph 36.

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37. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
26 paragraph 37.

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COUNT THREE

(Breach of Contract)

38. Preferred Plumbing/Ruiz realleges and incorporates by references its responses to paragraphs 1-37 above.
39. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations in paragraph 39 as such allegations are vague and ambiguous. Preferred Plumbing/Ruiz denies each and every allegation contained in paragraph 39 on that basis.
40. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations in paragraph 40 as such allegations are vague and ambiguous. Preferred Plumbing/Ruiz denies each and every allegation contained in paragraph 40 on that basis.
41. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations in paragraph 41 as such allegations are vague and ambiguous. Preferred Plumbing/Ruiz denies each and every allegation contained in paragraph 41 on that basis.
42. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations in paragraph 42 as such allegations are vague and ambiguous. Preferred Plumbing/Ruiz denies each and every allegation contained in paragraph 42 on that basis.
43. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations in paragraph 43 as such allegations are vague and ambiguous. Preferred Plumbing/Ruiz denies each and every allegation contained in paragraph 43 on that basis.
44. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations in paragraph 44 as such allegations are vague and ambiguous. Preferred Plumbing/Ruiz denies each and every allegation contained in paragraph 44 on that basis.

- 1 45. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations
 2 in paragraph 45 as such allegations are vague and ambiguous. Preferred
 3 Plumbing/Ruiz denies each and every allegation contained in paragraph 45 on that
 4 basis.
- 5 46. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
 6 paragraph 46.
- 7 47. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
 8 paragraph 47.
- 9 48. Preferred Plumbing/Ruiz is unable to frame a meaningful response to the allegations
 10 in paragraph 48 as such allegations are vague and ambiguous. Preferred
 11 Plumbing/Ruiz denies each and every allegation contained in paragraph 48 on that
 12 basis.

13 COUNT FOUR

14 (California Labor Code Sections 226 and 1174)

- 15 49. Preferred Plumbing/Ruiz realleges and incorporates by references its responses to
 16 paragraphs 1-48 above.
- 17 50. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
 18 paragraph 50.
- 19 51. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
 20 paragraph 51.
- 21 52. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
 22 paragraph 52.
- 23 53. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in
 24 paragraph 53.

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COUNT FIVE

(California Labor Code Section 203)

54. Preferred Plumbing/Ruiz realleges and incorporates by references its responses to paragraphs 1-53 above.

55. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 55.

56. The allegations in paragraph 56 are a statement of law which may or may not be correct depending upon a number of circumstances. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 56 on that basis.

57. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 57.

COUNT SIX

(Violation of California Business and Professions Code Section 17200)

58. Preferred Plumbing/Ruiz realleges and incorporates by references its responses to paragraphs 1-57 above.

59. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 59.

60. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 60.

61. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 61.

62. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 62.

63. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 63.

64. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 64.

65. Preferred Plumbing/Ruiz specifically denies each and every allegation contained in paragraph 65.

PRAYER FOR RELIEF

Defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz deny that plaintiffs are entitled to any of the relief prayed for in the Complaint. As and for Affirmative Defenses, defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz allege:

FIRST AFFIRMATIVE DEFENSE

1. The Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiffs' claims are barred for lack of subject matter jurisdiction.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiffs' claims are barred by the doctrines of equitable estoppel and waiver.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiffs' claims fail to state facts sufficient to support an award of attorney's fees against these answering defendants.

FIFTH AFFIRMATIVE DEFENSE

5. Preferred Plumbing/Ruiz has insufficient knowledge or information on which to form a believe as to whether he may have additional, as yet unstated, affirmative defenses available, and Preferred Plumbing/Ruiz reserves the rights to assert such additional affirmative defenses in the event investigation and discovery indicate they are proper.

SIXTH AFFIRMATIVE DEFENSE

6. The performance and obligations of Preferred Plumbing/Ruiz alleged in the Complaint were excused by plaintiffs' conduct and prior breaches of contract.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiffs have knowingly made false accusations against these answering defendants and are using the legal process for the improper purposes. Accordingly, plaintiffs are guilty of inequitable conduct and come into this Court with unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

8. These answering defendants acted accordance with contract, but plaintiffs failed to perform in accordance with contract.

WHEREFORE, defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz pray for judgment on the Complaint herein as follows:

1. That judgment be entered against plaintiffs and in favor of defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz, and that plaintiffs take nothing whatsoever by their Complaint;

2. That defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz recover their costs of suit;

3. That defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz recover their attorney's fees; and

4. For such other and further relief as the Court may deem just and proper.

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DEMAND FOR JURY TRIAL

Defendants Preferred Plumbing, Inc., James Luis Ruiz, Emilio Ruiz and Federico Ruiz demand a trial by jury of all issues so triable.

Dated: May 2, 2008

LAW OFFICES OF ARI J. LAUER

By: _____/s/

ARI J. LAUER
Attorneys for defendants PREFERRED
PLUMBING, INC., JAMES LUIS RUIZ, EMILIO
RUIZ and FEDERICO RUIZ